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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,085	11/08/2004	Erik Hestvik	04196	2788

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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3781

MAIL DATE	DELIVERY MODE
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08/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/512,085	Applicant(s) HESTVIK, ERIK	
	Examiner Tri M. Mai	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-43 is/are pending in the application.
- 4a) Of the above claim(s) 26 and 38-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 26-28, 30-37 and 41-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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1. Claims 29, and 38-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention as previously set forth.

Claims 38-40 are withdrawn because these claims are different embodiment.

The examiner notes that the search and consideration for the holder in each of these embodiments is time consuming and impose a tremendous burden on the examiner since each embodiment is required to be searched in different classes and subclass.

2. The drawings submitted 08/22/06 have been disapproved. These drawings contain new matter, e.g., the original disclosure does not teach the device being used on the location in Fig. 6, and the extra strap between the two holders, the location of the device in Fig. 7.

3. Claims 26, 27, 28, 32, 33, 34, 35, 41, 42, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gregg in view of Parsons et al. (4955518). Gregg teaches a holder having a locking device having a first holding member having a gap at 84, a second holding member in Fig. 10 with a diameter in Fig. 10, and the distance between the first and second holding members being adjustable, col. 7, ln. 15, Gregg meets all claimed limitations except for clip with the locking device, Parsons teaches that it is known in the art to provide a clip with a locking device at 15. It would have been obvious to one of ordinary skill in the art to provide a holding clip locking device as taught by Parsons to provide added security.

Regarding claim 32, the first holding member in Gregg in view of Parsons inherently has a high frictional contact as compared to the second holding member due to the device having the strap holding tightly the content.

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Regarding claim 41, Parsons teaches that it is known in the art to make holder from plastic, col. 3, ln. 56. It would have been obvious to one of ordinary skill in the art to make the holder from plastic to provide the desired material for the holding device.

4. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Gregg rejection in view of Oakes (3992799). Gregg meets all claimed limitations except for the material being rubber material. It would have been obvious to one of ordinary skill in the art to provide rubber material as taught by Oakes, col. 4, ln. 18 to provide the desired material for the desired resiliency.

5. Claims 26, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Austin et al. (4006825). Austin teaches a first holding member at 13 with a holding device 25 and a second holding member at 12 having an opening as claimed and the distance between the first and second holding members is adjustable, i.e., the two holding member can be adjusted via the screws 14.

6. Claims 30, 35, 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Austin in view of McClellan (4132381). Austin meets all claimed limitations except for the bracket and strap are manufacture from the same material. McClellan teaches that it is known in the art to provide the bracket and strap manufactured from the same material as one homogenous piece being rubber, col. 1, ln. 61. It would have been obvious to one of ordinary skill in the art to provide bracket and strap manufactured from the same material as taught by McClellan as one homogenous piece for convenience of manufacturing and/or to provide an alternative clamp for the device.

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T.M. 7. Claim 26 ^{is} ~~are~~ rejected under 35 U.S.C. 102(b) as being anticipated by Ratcliff et al. (6435469). Ratcliff teaches a first holding member 57 with a locking device 103, a second holder 33 and the distance being adjustable via 85, 87.

8. Claims 26, 34, 35, 42, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Marino (4751923). Marino teaches a 1st holding member being either loop 58 or 38, and the locking device is the hook and loop fasteners, and the other loop of 38 and 58 is the second loop with a diameter as claimed, i.e, the loop can conform to the diameter of the device and thus having diameter as claimed. The two loops can be adjustable as claimed.

9. Claims 36, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marino in view of Chee (5086762). Marino meets all claimed limitations except for the buckle. Chee teaches that it is known in the art to provide a buckle for a belt at 52. It would have been obvious to one of ordinary skill in the art to provide a belt as taught by Marino to provide an alternative device ^{sewing} for belt.

It would have been obvious to one of ordinary skill in the art to provide the holding members on opposite sides of the buckle to provide the desired placement of the holding members.

10. Claims 26, 34 35, 36, 42, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (4863083). Chen teaches a 1st holding member being one of the loop in figs. 1, and the locking device is the hook and loop fasteners 28, and one of other loop of is the second loop with a diameter as claimed, i.e, the loop can conform to the diameter of the device and thus having diameter as claimed. The loops can be adjustable via the loops 24/30 as claimed.

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11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai
Primary Examiner
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